



U.S. Department of Justice

United States Attorney
Southern District of New York

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One Saint Andrew's Plaza
New York, New York 10007*

March 8, 2020

FILED BY ECF

The Honorable Alison J. Nathan
United States District Judge
Southern District of New York
United States Courthouse
40 Foley Square, Courtroom 1306
New York, New York 10007

Re: *United States v. Ali Sadr Hashemi Nejad*, 18 Cr. 224 (AJN)

Dear Judge Nathan:

The Government respectfully submits this letter regarding the Government's motion to preclude proposed expert testimony on the concept of "de-risking" (Dkt. 248), which the Government believes is still an open issue.

On February 29, 2020, the Government moved to preclude certain categories of the defendant's proposed expert testimony. (Dkt. 248). On March 2, 2020, the Court permitted the defense to open on the concept of "de-risking," and explained that evidence regarding "de-risking" could be relevant on a "case-by-case basis." (Trial Tr. at 7). The defense was precluded from using the word "discrimination" in discussing "de-risking." (*Id.* at 12).

On March 3, the defense opened on the concept of "de-risking" and has since sought to elicit testimony regarding this concept from the Government's bank witnesses. (*Id.* at 784, 954-55). On March 4, when the Government sought to elicit limited testimony about the definition of "de-risking" with U.S. Department of Treasury Policy Advisor Crina Ebanks, the defendant objected on the basis that the Government had not provided expert notice on this subject. (*Id.* at 318). The Court ruled that the Government could not elicit such testimony through Ms. Ebanks, but could do so in a rebuttal case. (*Id.* at 321). On March 5, the defense sought to offer redacted portions of DX 96, an October 2016 document on "Correspondent Banking Services," published by the Financial Action Task Force ("FATF"), which discusses "de-risking." The defense read the definition of "de-risking" from DX 96 for the jury, and will presumably continue with this document on Monday.

The Government respectfully moves to preclude proposed testimony from Trita Parsi or Robert Clifton Burns on "de-risking" because neither of these witnesses are qualified to discuss this concept. (*See* Dkt. 249, Ex. A). Parsi is former President and Founder of the National Iranian American Council "NIAC"), a non-profit "dedicated to strengthening the voice of Iranian

cc: Defense Counsel (by ECF)